

**Amendments to the Drawings:**

The attached sheets of drawings include replacement sheets for FIG. 2. The replacement sheet includes adjustment screws **74** in FIG. 2 as the examiner requested. An annotated marked-up drawing sheet indicating changes to FIG. 2 is included.

Attachment: Replacement Sheet for FIG.2

Annotated Sheet Showing Changes to FIG. 2

**REMARKS****I. Status of the Claims**

Claims 1, 17, 24, and 30 are amended.

Claims 1-30 are pending.

**II. Amendments to the Specification, Drawings, and Claims**

On page 2 of the Action, the examiner objects to the lack of a feature specified in the claims. Amended drawings are submitted to include the examiner's requirement. No new matter is added.

Support for claim amendments can be found throughout the specification, the drawings, and the original claims as filed. For example, support can be found on pages 3-4, paragraphs 00011-00013 and page 8, paragraph 00033, and page 11, paragraph 00040.

**III. Claims 1-2, 7-9, 16-18, 22-25, 28 and 29 are Not Anticipated by Trail (US Pat No. 4,181, 612)**

On page 4 of the Action, the examiner rejects claims 1, 2, 7, 8, 16, 17, 21-24, 26 and 27 under 35 U.S.C. § 102 (b) as being anticipated by Trail. On page 4, paragraph 6 of the Action, the examiner states that Trail teaches an apparatus for servicing a bird cage that includes a pump (18) and a receptacle (10).

Claims 1, 17, 24, and 30 are amended to clarify that the receptacle defines an edge including a cavity. There is no mention of a receptacle including an edge and a cavity in Trail that permits passage therethrough of a liquid as disclosed in the present application. In Trail, the spray head sprays the water in the bottom of the cage to flush the waste through a funnel-shaped sump or trough. Trail does not disclose a receptacle having an edge where the liquid is discharged over the edge as in the present claims.

Trail discloses a funnel-shaped sump or trough (10) as a receptacle to collect the waste and a spray head with orifices to spray water and remove the waste by a flushing action (column 3 lines 55 through column 4 line 45). A funnel-shaped sump in Trail, in association with a spray head may not

hold the liquid because the sprayed liquid drains into a J-shaped trap (16) (column 3 lines 59-62; and column 4 lines 40-45 of Trail). In Trail, there may not be a constant body of liquid as in claim 7, to drain the waste material because the removal process is accomplished by intermittent flushing through a spray-head. In Trail, the spray head is located at the bottom of the funnel-shaped trough, directly beneath the bird-cage, and is likely to get clogged by the falling debris. The intermittent flush operation is likely to result in sticky, dried bird droppings on the un-wet dry side walls of the funnel-shaped trough in Trail. In addition, not all the surface areas of the funnel-shaped trough is covered by the water from the spray-head (see Fig. 2 in Trail).

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently." *In re Schreiber*, 128 F.3d at 1477. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001).

Trail does not anticipate pending claims 1-2, 7-9, 16-18, 22-25, 28 and 29 under 35 U.S.C. § 102 (b). Applicant respectfully requests that the 102 (b) rejection be withdrawn and the pending claims be allowed.

**IV. Claims 3-6, 10-15, 19-21, 26-27 are Non-Obvious Over Trail in view of Karlson (US Pat. No. 1,771,492)**

On pages 4-5 of the Action, the examiner rejects claims 3-6 under 35 U.S.C. § 103 (a) as being unpatentable over Trail in view of Karlson and claims 10-15, 19-21, 26-27 under 35 U.S.C. § 103 (a) as being unpatentable over Trail.

Trail is discussed above under Section III of this response. On page 5 of the Action, the examiner states

In any case, Karlson discloses a tray (5) having three sides and a void in order to, for instance, facilitate good footing to animals and provide flexibility to the configuration of the apparatus (page 1, lines 65-74)

Accordingly, it would have been readily obvious for the skilled artisan to have modified the system of Trails [sic] such that it includes the

recited tray in order to, for instance, facilitate good footing to animals and provide flexibility to the configuration of the apparatus, as suggested by Karlson.

The tray referred to in claim 3 of the present application refers to an embodiment of the receptacle and not to an animal support means as the examiner has alluded to in the Office Action. The tray in claim 3 does not facilitate "good footing to animals". The tray referred to in Karlson (page 1, lines 65-74) provides a "comfortable footing" for the fowls. The tray in claim 3, however, serves as a receptacle to discharge the liquid with the animal waste. A moving body of liquid in the tray in claim 3 does not facilitate "comfortable footing" as stated in Karlson. Therefore, Karlson teaches away from the pending claims 3-6. Karlson merely relates to poultry crates and does not disclose a waste containment system as in pending claims 3-6, even in view of Trail.

To properly combine two references to reach a conclusion of obviousness, there must be some teaching, suggestion or inference in either or both of the references, or knowledge generally available to one skilled in the art, which would have led one to combine the relevant teachings of the two references. *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc. et al.* (CAFC 1985) 776 F. 2d 281, 227 USPQ 657. There is no motivation or suggestion in Trail to combine Karlson. Even if Karlson, were combined with Trail, the resulting apparatus still would not render claims 3-6 obvious. Trail does not disclose a tray and the tray disclosed by Karlson is merely configured to facilitate "good footing" to the fowls and is not configured to receive a liquid and waste into a cavity of the tray and to discharge the liquid and the waste from the cavity over an edge of the tray as in pending claims 3-6. Therefore, claims 3-6 are non-obvious over Trail in view of Karlson.

Regarding claims 10-15, 19-21, 26-27, the examiner admits that Trail does not teach an additional porous layer, a UV sterilization unit and an automatic shut-off control pump. Based on the foregoing discussion of Trail, because Trail does not teach a waste containment system as disclosed in the present application, the applicant respectfully requests that the 103 (a) rejection be withdrawn.

"Obviousness requires a suggestion of all limitations in a claim". *CFMT, Inc. v. Yieldup Int'l Corp.*, 2003 U.S. App. LEXIS 23072 (Fed. Cir. 2003). A statement that modifications of the prior art to meet the claimed invention would have been " 'well within the ordinary skill of the art at the time the claimed invention was made' "because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. *Ex parte*

*Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See also *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000). Both the suggestion to make the claimed composition or device or carry out the claimed process and the reasonable expectation of success must be founded in the prior art, not in applicant's disclosure. *In re Vaeck* (CAFC 1991) 947 F. 2d 488, 20 PQ. 2d 1438.

#### **V. Terminal Disclaimer**

A terminal disclaimer is concurrently filed to overcome a non-statutory double patenting rejection of page 3 of the Office Action. A fee of \$65.00 pursuant to 37 C.F.R. 1.20(d) is included with this response.

#### **V. Conclusion**

Applicant respectfully requests that the pending claims be allowed. If a telephone interview will clarify some of the issues and expedite the prosecution, the applicant welcomes the examiner to contact the applicant's representative at 312-338-5921.

No other fees are believed due at this time, however, please charge any additional deficiencies or credit any overpayments to deposit account number 12-0913 with reference to our attorney docket number (35049/95382).

Respectfully submitted,



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Dated: \_\_\_\_\_

8/23/05